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In the Supreme Court of the United States

October Term, 1923

No. ____

RAY LYMAN WILBUR, as Secretary of the Interior, petitioner,

v.

THE UNITED STATES OF AMERICA ex rel. Tom Wilcox Consolidated Gold Mining Company, a Corporation

PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

The Solicitor General, on behalf of Ray Lyman Wilbur, Secretary of the Interior, prays that a writ of certiorari issue to review the judgment of the Court of Appeals of the District of Columbia entered in the above-entitled cause on February 5, 1923 [illegible] reversing the judgment of the Supreme Court of the District of Columbia [illegible] mandamus [illegible]

Pursuant to the [illegible] Act, as Secretary, the respondent [illegible] action in the Supreme Court of the District of Columbia

bia to review a final decision of the Secretary of the Interior upon its claim under the War Minerals Relief Act of March 2, 1919, c. 94, 40 Stat. 1272, based in part upon expenditures for the purchase of property containing chrome, which was disallowed by the Secretary of the Interior in so far as such expenditures were concerned. The Supreme Court of the District dismissed this petition, but upon appeal to the Court of Appeals of the District of Columbia this decision was reversed and the case remanded to the Secretary for further proceedings. The action of the Secretary of the Interior in disallowing a similar claim was upheld by this Court in *Work v. Rives*, 267 U. S. 175, prior to the enactment of the Act of February 13, 1929.

The case was disposed of by the Supreme Court of the District of Columbia and by the court below upon the pleadings. The petition (R. 2) alleged that respondent had filed a claim under the War Minerals Relief Act of March 2, 1919 (Appendix, p. 23). This Act provided, in so far as material—

> SEC. 5. That the Secretary of the Interior be, and he hereby is, authorized to adjust, liquidate, and pay such net losses as have been suffered by any person, firm, or corporation, by reason of producing or preparing to produce . . . chrome . . . in compliance with the request or demand of the Department of the Interior . . . to supply the urgent needs of the Nation in the prosecution of the war . . .

The said Secretary shall make such adjustments and payments in each case as he shall determine to be just and equitable; that the decision of said Secretary shall be conclusive and final, subject to the limitation hereinafter provided; * * * *And provided further*, That no claim shall be allowed or paid by said Secretary unless it shall appear to the satisfaction of the said Secretary that the expenditures so made or obligations so incurred by the claimant were made in good faith for or upon property which contained * * * chrome * * * in sufficient quantities to be of commercial importance: *And provided further*, That no claims shall be paid unless it shall appear to the satisfaction of said Secretary that moneys were invested or obligations were incurred subsequent to April sixth, nineteen hundred and seventeen, and prior to November twelfth, nineteen hundred and eighteen, in a legitimate attempt to produce * * * chrome * * * for the needs of the Nation for the prosecution of the war, and that no profits of any kind shall be included in the allowance of any of said claims, and that no investment for merely speculative purposes shall be recognized in any manner by said Secretary; * * *

The petition further alleged in substance that the claim filed by respondent included among such losses the sum of $16,250 expended for the purchase of property containing chrome, and that after hearings the Secretary of the Interior denied the

respondent an award for said sum on the ground [illegible] reimbursable [illegible] The petition alleged that there had been a final decision against the respondent on a claim of his which was subject to review under the Act of February 14, 1929, and asked a review of the decision and appropriate relief.

The petitioner originally filed a response to the petition for certiorari and mandamus, to which were attached exhibits showing the action of the Secretary of the Interior in denying respondent's claim for the expenditure of $16,259. (R. 6.) This response was subsequently withdrawn by stipulation (R. 21), leaving the exhibits for the consideration of the court, and the petitioner answered.

Although the allegation in paragraph 8 of the petition that the respondent had expended moneys for the purchase of property and that such items constituted a net loss to respondent was denied (R. 24), this denial was qualified by paragraph 12 of the answer (R. 25), where it was alleged, in substance, that in the exercise of the discretion conferred on the Secretary of the Interior the petitioner, following similar action by his predecessors, had determined that no allowance should be made for expenditures in purchasing property to which title was rejected, and that respondent's claim had, therefore, been [illegible] by the Secretary of the Interior. Other [illegible] contained in the petition were denied, and respondent moved to dismiss the petition on the ground that the hearings before the Secretary of the Interior denied the

a judgment in which it was directed that "the questions of law raised by the petition were properly adjudicated by the Secretary of the Interior. (R. 28.) Upon respondent's appeal to the Court of Appeals of the District of Columbia that court reversed the judgment of the Supreme Court of the District of Columbia and directed that the cause be remanded for further proceedings not inconsistent with its opinion. (R. 33.) The court below held that the Act of March 2, 1917, required the allowance of claims based upon moneys spent in purchasing land, relying upon its earlier decision in *Work* v. *United States ex rel. Rives*, 54 App. D. C. 84, but made no mention of the reversal of its decision in that case by this Court in *Work* v. *Rives*, 267 U. S. 175.

SPECIFICATION OF ERRORS TO BE URGED.

The court below erred—

(1) In holding that the Secretary of the Interior in the exercise of his discretion was not justified in disallowing the portion of respondent's claim which was based upon the purchase price of property to which respondent retained title.

(2) In holding that as a matter of law the petitioner was required to make an allowance for any net loss sustained by the respondent in the purchase of property to which it still holds title.

(3) In holding that the petitioner should determine as a matter of fact the net loss sustained by

the respondent by reason of the purchase of property to which it still held title.

(4) In holding that petitioner's discretion under the Act of March 2, 1919, in disallowing claims based upon the purchase price of property was eliminated by the Act of February 13, 1929.

(5) In directing the Secretary of the Interior to determine the loss resulting from the expenditure of $16,259 without determining whether the allowance of any such loss would in his opinion be just and equitable.

REASONS FOR GRANTING THE WRIT

1. Unless the Act of February 13, 1929, is to be interpreted as removing from the Secretary all discretion in the allowance of claims, the decision in the present case is in conflict with the decisions of this Court.

In *Work* v. *Rives*, 267 U. S. 175, this Court held that under Section 5 of the Act of March 2, 1919, it was within the discretion of the Secretary of the Interior to disallow a claim based upon the cost of obtaining a release from a contract to buy land, which was treated as the cost of real estate, and that the exercise of discretion by the Secretary of the Interior in disallowing such claim was not subject to review by mandamus.

In *Work* v. *Chesapeake Corporation*, 267 U. S. 185, this Court held that under Section 5 of the Act of March 2, 1919, it was within the discretion of the Secretary of the Interior to disallow a claim for

interest paid by a claimant upon money borrowed to enlarge the claimant's plant to meet the war necessities, and that the exercise of this discretion was not subject to review by mandamus.

These cases were decided by this Court prior to the enactment of the Act of February 13, 1929. At the time they were decided there was no provision in the statutes for a review of the decision of the Secretary of the Interior in connection with claims under the War Minerals Relief Act, and reference was made to the absence of any provision for such review in the opinion of this Court in *Work* v. *Rives, supra*. The Act of February 13, 1929, provided for a review of the action of the Secretary of the Interior in connection with a claim filed with him under the War Minerals Relief Act upon a petition to the Supreme Court of the District of Columbia filed within one year from the passage and approval of the Act of February 13, 1929. The review provided by the Act of February 13, 1929, was limited by the statute to "any question of law which has arisen or may hereafter arise in the adjustment, liquidation, and payment" of claims. The Act expressly provided that "* * * the decision of the Secretary of the Interior on all questions of fact shall be conclusive and not subject to review by any court."

The decision of the court below draws no distinction between the broad discretion of the Secretary of the Interior in making such adjustments and

Since the Act

that decisions of the

may be reviewed only

Court of the District

questions are reviewed by

will be bound, in all

by the decision of the court below.

it is respectfully submitted that the

should be granted.

THOMAS D. THACHER,
Solicitor General.

MAY, 1931.

[illegible] April 29, 1931, the Solicitor of the Depart-

[illegible] Interior stated:

"According to the records of the Interior Department there are 1,000 War Minerals claims, of which 396 involve purchase of property and besides the interest as follows:

[illegible]	$9,082,867
[illegible]	403,926
[illegible]	205,220

Of these 396 claims, 108 are the subject of suits filed in the Court of Claims under the act of February 13, 1929. [illegible] the 396 cases involve property and [illegible] 111 involve interest. The amount claimed for [illegible] is reduced by reductions for salvage, while the [illegible] would be increased and pos[illegible] decided M. computed to the date of settle[illegible]

[illegible], it appears that there are approxi[illegible] claims involving possession of property which in[illegible] and 111 involving claims for interest and the [illegible] amounts involved would be in excess of $3,000,000."

BRIEF IN SUPPORT OF THE PETITION

OPINIONS BELOW

The opinion of the Court of Appeals of the District of Columbia (R. 33) is reported in 57 App. D. C. (66) 422. No opinion was rendered by the Supreme Court of the District of Columbia. The judgment of that court, stating the basis of its action, is in the record. (R. 28.)

JURISDICTION

The judgment of the Court of Appeals of the District of Columbia was entered February 2, 1931. (R. 35.) The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925.

QUESTIONS PRESENTED

1. Was the discretion of the Secretary of the Interior under the Act of March 3, 1919, to disallow claims the allowance of which he determined would be unjust and inequitable, removed by the Act of February 13, 1929?

2. Was the action of the Secretary of the Interior in disallowing respondent's claim based upon the purchase price of property, erroneous as a matter of law?

STATUTES INVOLVED

The applicable statutes appear in the Appendix.

ARGUMENT

I

THE ACT OF MARCH 2, 1929, VESTED IN THE SECRETARY OF THE INTERIOR BROAD DISCRETION TO DISALLOW ANY CLAIMS WHICH SHOULD NOT ACCORD WITH HIS SENSE OF MORAL AND EQUITABLE JUSTICE AND WAS NOT DEPRIVED OF THIS DISCRETION BY THE ACT OF FEBRUARY 13, 1929

In *Work v. Rives*, 267 U. S. 175, this Court considered the action of the Secretary of the Interior in disallowing a portion of a claim based upon the amount paid by the claimant to obtain a release from a contract to purchase property, upon appeal from a judgment of the Court of Appeals of the District of Columbia, which affirmed a judgment of mandamus directing the Secretary to allow the claim. While the claim in that case was based upon expenditures made in obtaining a release from a contract to buy land, and the claim in the present case is based upon expenditures made in the purchase of land, the principle involved is the same. The loss in that case was clear, whereas in this case, where the claimant relates title to the property purchased, the loss, if any, must necessarily be incapable of exact ascertainment. In reversing the judgment of the court below, this Court said, at pages 182-183, 181-183:

> The Dent Act was passed by Congress in an effort to do justice and equity to the many persons who could not obtain from

the Government compensation for supplies or services furnished or losses incurred in helping the Government during the war, because of a lack of enforceable contracts or equities. * * *

By section 5 provision was made, not to pay for supplies or services rendered directly to the Government, but to relieve a class of persons who were invited by the Government to invest money in the production and preparing for the production of certain metals or materials difficult to obtain, and needed for the war, and who had thereupon incurred expense therein and had suffered losses because of the coming of the armistice and the consequent destruction of the market for such metals.

The said Secretary was to make adjustments and payments in such case as he should determine to be just and equitable; and the decision of the Secretary was to be "conclusive and final."

* * * * * *

The above summary of section 5 clearly shows that Congress was seeking to save the beneficiaries from losses which it would have been under no legal obligation to make good if a private person. It was a gratuity based on equitable and moral considerations. *United States v. Realty Company*, 163 U. S. 427, 439; *Allen v. Smith*, 173 U. S. 389, 402. Congress did not wish to create a legal claim. It was not dealing with vested rights. It did not, as it did with the claims for supplies and services directly furnished the

Government under the first and second sections of the Act, make the losses recoverable in a court, but expressly provided otherwise. It dealt with the subject with the utmost caution. It hedged the granting of the equitable gratuity with limitations to prevent the use of the statute for the recovery of doubtful or fraudulent claims or merely speculative losses. It vested the Secretary with power to reject all losses, except as he was satisfied that they were just and equitable and it made his decision conclusive and final. Final against whom? Against the claimant. He could not resort to court to review the Secretary's decision. This was expressly forbidden. By the fifth proviso, however, the Government was permitted through any of its agencies or even by a committee of Congress duly authorized, to review the settlement by the Secretary and by necessary implication to reverse it. If the Government was defrauded, it was authorized to sue to recover any money paid under the award.

Congress was occupying toward the proposed beneficiaries of section 5 the attitude rather of a benefactor, than of a debtor at law. Congress intended the Secretary to act for it, and to construe the meaning of the words used to describe the elements of the lost losses to be ascertained and to give effect to his interpretation without the intervention of the courts. This statute presents a case of as wide discretion as was held to have been vested in the Secretary of the Navy in the *Decatur Case*.

Nor does the amendment of 1921 change the effect of the Act in this regard. His counsel insist that it was adopted in order to relieve claimants from previous narrow rulings of the Secretary. There is nothing in the amendment that indicates the Congressional purpose to do more than it purports to do, i. e., to enable the Secretary to entertain claims for losses incurred at the instance of any government agencies whether direct and personal or by public invitation, and to enable the Secretary to grant rehearings, correct miscalculation and award additional amounts. The amendments still left all claims to his sense of justice and equity.

In *Work* v. *Chestatee Corporation*, 267 U. S. 185, this Court considered the action of the Secretary of the Interior in disallowing a portion of a claim under Section 5 of the Act of March 2, 1919, based upon interest on money borrowed by the claimant and reversed a judgment of the court below which had affirmed a judgment of the Supreme Court of the District of Columbia issuing a writ of mandamus directing the Secretary of the Interior to allow the claim. This Court said, at page 187:

> The question was one for the Secretary of the Interior to decide, and that finally.

In disposing of the present case the lower court referred to its own earlier decision in *Work* v. *United States ex rel. Rives*, 54 App. D. C. 84, but

did not make any reference to the reversal of that decision by this Court in *Work v. Rives, supra.*

In *Work v. Rives, supra*, this Court held that, in addition to the broad discretion conferred upon the Secretary to determine what allowances and adjustments would be just and equitable, the Act of March 2, 1919, gave him discretion to construe the Act and determine all questions of law arising thereunder. Assuming for the present purpose that the Act of February 13, 1923, permitted a review of the construction placed upon the Act by the Secretary, it is clear that it did not permit a review of the exercise of his discretion in determining what allowances should be made as a matter of justice and equity. The court below recognized no such distinction and proceedings in accordance with its opinion will necessarily deprive the Secretary of the discretion conferred upon him by the Act of March 2, 1919, to disallow all claims which he does not consider just and equitable. If he is only authorized to find the facts and determine the loss therefrom (as he is required to do by the opinion of the court below) he is not free to determine the justice and equity of the claim as the statute requires. If he has already determined this question, the court below was wrong in attempting to review his exercise of discretion. If he has not done so, the court below was wrong in directing him to proceed in such a manner as to deprive him of discretion in determining the equity and justice of the claim.

II

THE SECRETARY'S CONSTRUCTION OF THE STATUTE WAS CORRECT

Since the enactment of the Act of March 2, 1919, the Secretaries of the Interior have uniformly refused to allow claims based upon the purchase price of property to be used in producing the minerals referred to in the Act. This administrative construction should be followed unless clearly wrong. *United States* v. *Finnell*, 185 U. S. 236; *Hall* v. *Payne*, 254 U. S. 343.

The several Secretaries of the Interior relied in part upon the legislative history of Section 5 which was referred to by this Court in *Work* v. *Rives*, *supra*. The War Minerals Act was first introduced in the Senate as an amendment to H. R. 13374, 65th Congress, 3d session. Originally it read in part as follows:

> That the Secretary of the Interior be, and hereby is, authorized and directed to ascertain and determine the amount or amounts of money heretofore invested or contracted to be invested and obligations incurred by any and all persons and investors for producing or for the purpose of producing or preparing for producing or acquiring property for producing [illegible]

During its consideration in the Senate, on January 28, 1919, Senator Smoot objected to that provision of the bill and said:

I want to call the attention of the Senator from Nevada (Senator Henderson) to the words "or acquiring property for producing." It seems to me that is going too far. I think that where a man has purchased a piece of property for producing these metals we should not authorize the Secretary of the Treasury to go into the question as to what he paid and whether he lost upon the purchase price of that property because of the fact that the war closed sooner than he anticipated. I believe that is going altogether too far. I will ask the Senator if it would not be very much better to strike out the words "or acquiring property for producing."

Senator Henderson, who was the Chairman of the Senate Committee on Mines and Mining, in charge of the legislation, answered: "I will consent to that, Mr. President." The law as finally enacted was drafted by the House Committee on Mines and Mining and does not contain the phrase "or acquiring property for producing."

The Secretary of the Interior requested the opinion of the Attorney General as to whether he was authorized to adjust, liquidate and pay net losses sustained in the purchase of real estate and losses arising from the payment of interest on borrowed money. Attorney General Sargent in an opinion rendered on March 23, 1926, advised:

I think it must be held that Congress has by acquiescence sanctioned and adopted your

construction as a correct interpretation of its intent. (35 Op. A. G. 426, 430.)

Although the construction placed upon this statute by the several Secretaries of the Interior was called to the attention of Congress (see, for example, page 43 of Secretary Payne's response to Senate Resolution 429, Senate Document 385, 66th Cong., 3d sess.), no statute has been passed which provides expressly or by inference that Congress disapproved the construction of the Act by the Secretaries of the Interior. By this long acquiescence in the administrative construction of the Act it is submitted that Congress has given its approval thereto.

The legislative history of the Act of February 13, 1929, shows that it was not designed to change the construction placed upon the Act of March 2, 1919, by successive Secretaries of the Interior. On January 28, 1929, Mr. Robsion, on behalf of the Committee on Mines and Mining, submitted a report to the House of Representatives in connection with a pending Bill (H. R. 15881), which subsequently was enacted and approved as the Act of February 13, 1929. Mr. Robsion said in part:

> The bill does not enlarge in any manner the scope of existing war minerals legislation, nor does it permit the filing of any new claims. It simply confers upon the Supreme Court of the District of Columbia, the appellate courts, and the Supreme Court of the United States jurisdiction to

pass upon questions of law for the guidance of the Secretary of the Interior for his further administration of the war minerals act.

It does not take the administration of the war minerals act away from the Secretary of the Interior as provided for in the original act.

Various attempts to enact legislation specifically designed to reverse the construction of the Act by the Secretaries of the Interior were unsuccessful. On March 25, 1926, Senator Oddie, on behalf of the Committee on Mines and Mining, submitted a favorable report to the Senate upon a Bill (S. 3641) to amend the Act of March 2, 1919, which proposed Bill contained the following provision:

> SEC. 3. That the Secretary of the Interior is hereby authorized and directed to include in his adjustments and payments in each claim all items of net loss, *including moneys expended or obligations incurred for or in connection with the purchase or lease of property* and money paid and due to be paid for interest on borrowed capital. (Italics ours.)

This Bill did not pass.

Prior to the passage of the Act of February [illegible] House Bill 14131 was on the calendar, but was withdrawn in favor of House Bill 15861, which was subsequently enacted as the Act of February [illegible] and contained the following provision:

> the appellate courts and the Supreme Court of the United States jurisdiction to

That section 5 of the Act entitled "An Act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes," approved March 2, 1919, as amended, commonly referred to as the War Minerals Relief Act, is hereby amended to authorize and direct the Secretary of the Interior to determine, adjust, liquidate, and pay *net losses resulting from moneys expended or obligations incurred for the purchase or lease of property* acquired for the production of, or in the preparation to produce, either manganese, chrome, pyrites, or tungsten; and also to determine, adjust, liquidate, and pay net losses arising from money paid or due to be paid for interest on borrowed capital not to exceed the lawful rate of interest in the State where the obligation was incurred. (Italics ours.)

If Congress had intended to change the construction of the Act, which had been followed for a decade by successive Secretaries, that would have been done by a simple change in the substantive provisions of the law. These provisions were not changed and the court review was of questions of law determined under the statute without change. The provision for review did not justify the court below in preempting the discretion of the Secretary and changing the construction of the Act in which Congress had apparently acquiesced.

CONCLUSION

Because of the importance of the question involved in the administration of the law by the Secretary of the Interior and the apparent conflict between the decision of the court below and the decisions of this Court, it is submitted that the petition should be granted and that the judgment below should be reversed.

Respectfully submitted.

THOMAS D. THACHER,
Solicitor General.

SETH W. RICHARDSON,
Assistant Attorney General.

G. A. IVERSON,
Special Assistant to the Attorney General.

WHITNEY NORTH SEYMOUR,
Attorney.

E. C. FINNEY,
Solictor, Interior Department.

MAY, 1931.

APPENDIX

Extract from the Act of March 2, 1919, known as the War Minerals Relief Act, c. 94, 40 Stat. 1272, 1274:

Sec. 5. That the Secretary of the Interior be, and he hereby is, authorized to adjust, liquidate, and pay such net losses as have been suffered by any person, firm, or corporation, by reason of producing or preparing to produce, either manganese, chrome, pyrites, or tungsten in compliance with the request or demand of the Department of the Interior, the War Industries Board, the War Trade Board, the Shipping Board, or the Emergency Fleet Corporation to supply the urgent needs of the Nation in the prosecution of the war, said minerals being enumerated in the Act of Congress approved October fifth, nineteen hundred and eighteen, entitled "An Act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of those ores, metals, and minerals which have formerly been largely imported, or of which there is or may be an inadequate supply."

The said Secretary shall make such adjustments and payments in each case as he shall determine to be just and equitable; that the decision of said Secretary shall be conclusive and final, subject to the limitation hereinafter provided; that all payments and expenses incurred by said Secretary, including personal services, traveling

and subsistence expenses, supplies, postage, printing, and all other expenses incident to the proper prosecution of this work, both in the District of Columbia and elsewhere, as the Secretary of the Interior may deem essential and proper, shall be paid from the funds appropriated by the said Act of October fifth, nineteen hundred and eighteen, and that said funds and appropriations shall continue to be available for said purpose until such time as the said Secretary shall have fully exercised the authority herein granted and performed and completed the duties hereby provided and imposed: *Provided, however,* That the payments and disbursements made under the provisions of this section for and in connection with the payments and settlements of the claims herein described, and the said expenses of administration shall in no event exceed the sum of $8,500,000: *And provided further,* That said Secretary shall consider, approve, and dispose of only such claims as shall be made hereunder and filed with the Department of the Interior within three months from and after the approval of this Act: *And provided further,* That no claim shall be allowed or paid by said Secretary unless it shall appear to the satisfaction of the said Secretary that the expenditures so made or obligations so incurred by the claimant were made in good faith for or upon property which contained either manganese, chrome, pyrites, or tungsten in sufficient quantities to be of commercial importance: *And provided further,* That no claims shall be paid unless it shall appear to the satisfaction of said Secretary that moneys were invested or obligations were incurred subsequent to April sixth, nineteen hundred and seventeen, and prior

to November twelfth, nineteen hundred and eighteen, in a legitimate attempt to produce either manganese, chrome, pyrites, or tungsten for the needs of the Nation for the prosecution of the war, and that no profits of any kind shall be included in the allowance of any of said claims, and that no investment for merely speculative purposes shall be recognized in any manner by said Secretary: *And provided further*, That the settlement of any claim arising under the provisions of this section shall not bar the United States Government, through any of its duly authorized agencies, or any committee of Congress hereafter duly appointed, from the right of review of such settlement, nor the right to recover any money paid by the Government to any party under and by virtue of the provisions of this section, if the Government has been defrauded, and the right of recovery in all such cases shall extend to the executors, administrators, heirs, and assigns of any party.

That a report of all operations under this section, including receipts and disbursements, shall be made to Congress on or before the first Monday in December of each year.

That nothing in this section shall be construed to confer jurisdiction upon any court to entertain a suit against the United States: *Provided further*, That in determining the net losses of any claimant the Secretary of the Interior shall, among other things, take into consideration and charge to the claimant, the then market value of any ores or minerals on hand belonging to the claimant, and also the salvage or usable value of any machinery or other appliances which may be claimed was purchased to equip said mine

for the purpose of complying with the request or demand of the agencies of the Government above mentioned in the manner aforesaid.

Act of November 23, 1921, c. 137, 42 Stat. 322:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act approved March 2, 1919, entitled "An Act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes," be, and the same is hereby, amended as follows:

Add to the first paragraph of section 5 the following proviso: "*Provided,* That all claimants who, in response to any personal, written, or published request, demand, solicitation, or appeal from any of the Government agencies mentioned in said act, in good faith expended money in producing or preparing to produce any of the ores or minerals named therein and have heretofore mailed or filed their claims or notice in writing thereof within the time and in the manner prescribed by said Act, if the proof in support of said claims clearly shows them to be based upon action taken in response to such request, demand, solicitation or appeal, shall be reimbursed such net losses as they may have incurred and are in justice and equity entitled to from the appropriation in said Act.

"If in claims passed upon under said Act awards have been denied or made on rulings contrary to the provisions of this amendment, or through miscalculation, the Secretary of the Interior may award proper amounts or additional amounts.

Act of February 13, 1924, c. 182, 45 Stat. 1166:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any claimant who has heretofore filed with the Secretary of the Interior within the time and manner provided by existing law a claim under said Acts generally known as the War Minerals Acts (Fortieth Statutes, page 1272, and its amendments) may within one year from the date of the passage and approval hereof petition the Supreme Court of the District of Columbia to review the final decision of the Secretary of the Interior upon any question of law which has arisen or which may hereafter arise in the adjustment, liquidation, and payment of his claim under said Acts, but the decision of the Secretary of the Interior on all questions of fact shall be conclusive and not subject to review by any court.

SEC. 2. In any proceeding brought under the provisions of section 1 of this Act the Secretary of the Interior shall be designated as the defendant or respondent, and upon the filing of the petition the cause shall follow the usual procedure, subject to such rules or orders as the court may make with respect thereto.

SEC. 3. Jurisdiction is hereby conferred upon the Supreme Court of the District of Columbia, as a district court of the United States, to hear and determine all such suits and enter all orders, judgments, and decrees therein, subject to the usual right of appeal by either party to the Court of Appeals of the District of Columbia, whose final judgment may be reviewed by the Supreme Court of the United States by petition for cer-

tiorari or by appeal as provided by law and the rules of the court.

SEC. 4. Upon the final disposition of such proceeding, the clerk of the Supreme Court of the District of Columbia shall without delay certify to the Secretary of the Interior the final judgment or decree rendered therein, whereupon the Secretary of the Interior shall proceed with the final adjustment of said claim in accordance with the law as construed by the court in such judgment or decree.